

SAS:sas 07/20/04 292446  
PATENT

Attorney Reference Number 6915-66815-01  
Application Number 09/955,407

### **Remarks**

Claims 1-3, 5, 7-15, 17, and 19-24 are canceled herein. Claim 35 is amended to incorporate the limitations of claim 1. Claim 36 is amended to be in independent form and incorporates the limitations of claim 13. Claims 37-38 are amended to clarify the position of the base substitution. Support for this amendment can be found throughout the specification, for example at page 27, lines 20-30 and Figure 1. Claim 39 is amended to depend from claim 39. Following entry of this amendment, claims 7, 19 and 35-40 are pending.

This amendment is submitted to place claims 35-40 in condition for allowance. Applicant believes no new matter is added. Reconsideration of the subject application and allowance of claims 35-40 is respectfully requested.

### **Telephone Conference**

Applicants thank Examiner Chan for the helpful telephone conference of July 19, 2004, wherein the allowable subject matter was discussed.

### **Rejections under 35 U.S.C. § 112, First Paragraph**

Claims 1-3, 5, 8-15, 17 and 20-24 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly the specification does not include sufficient written description for these claims. Claims 1-3, 5, 8-15, 17 and 20-24 were also rejected under 35 U.S.C. § 112, first paragraph, as allegedly not being enabled by the specification. Applicants respectfully disagree with this rejection for the reasons of record.

However, solely to obtain rapid allowance of claims 35-40, and not for reasons pertaining to patentability, claims 1-3, 5, 8-15, 17 and 20-24 are canceled herein, rendering the rejection moot. Applicant reserves the right to pursue these claims in a continuation application.

### **Rejections under 35 U.S.C. § 112, Second Paragraph**

Claims 35-38 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly "at position -380" is unclear. Applicants thank the Examiner for the helpful suggestion to amend the claims to recite that "at position -380 relative to the transcription start site." Applicants have amended the claims accordingly, thereby removing the rejection.

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### Double Patenting Warning

The Office action notes that if claims 7, 14, 19 and 24 are found to be allowable, claims 35-40 will be rejected as being a substantial duplicate thereof. Claims 7, 14, 19 and 24 are canceled, rendering this rejection moot.

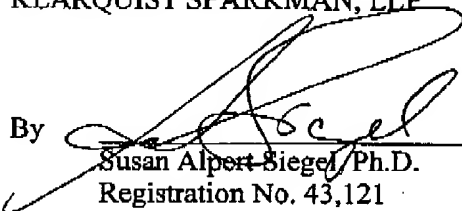
### Conclusion

Applicants believe that claims 35-40 are in condition for allowance. If any minor matters remain to be addressed before a Notice of Allowance is issued, Applicant respectfully requests that the Examiner initiate a telephone conference with the undersigned representative.

Respectfully submitted,

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